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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,790	03/29/2002	Herman Schmodde	214907	5616

23460 7590 10/31/2003

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EXAMINER

JILLIONS, JOHN M

ART UNIT PAPER NUMBER

3654

DATE MAILED: 10/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

Office Action Summary	Application No.	Applicant(s)	
	10/030,790	SCHMODDE ET AL.	
	Examiner	Art Unit	
	John M. Jillions	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/15/03 & 9/17/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-32 and 35-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-32 and 35-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The proposed new drawings of Figs. 6, 7, 10 and 14 were received on 7/21/03. These drawings with the proposed changes are approved by the examiner but are not considered formal since they are facsimiles that are not of good quality. New formal drawings incorporating the proposed changes will be required when the case is allowed.

Specification

2. The disclosure is objected to because of the following informalities:

Due to the numerous changes to the specification a NEW specification is hereby required and should include corrections as pointed out below.

In the replacement paragraphs to page 6, line 30, in the Preliminary Amendment of 1/11/02 on page 6 thereof—in line 3 of the first paragraph, the period after “such” should be deleted; same paragraph, line 7, the comma should be changed to a period, “as” changed to – As—and “my” should be changed to –may--; in the fourth paragraph, --14a—should be added after “dot-dashed line”.

Page 2 of the amendment of 9/15/03, in line 2 of the first replacement paragraph, “55” should be changed to –25--.

Page 10, line 28 of the original specification, --device—should be added after “fastening”.

Page 9 of the Preliminary Amendment of 1/11/02, line 8, --Fig. 9 and—should be added before “Fig. 12”; line 9, “and” should be deleted; line 10, “off” should be changed to –of--; line

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18, "termed" should be ~~formed~~; line 20, "36" should be ~~86~~; line 24, "139" should be ~~189~~; and line 26, "period" should be deleted.

Page 12, line 25 of the original specification, the period after "grounded" should be deleted.

Page 12, line 28 of the original specification, "off" should be ~~of~~.

In the Preliminary Amendment of 1/11/02, page 10, in the replacement paragraph for page 12, line 31, in line 5 "Fig. 8" should be changed to ~~Fig. 6~~, in line 11, "front" should be ~~from~~ and line 12, "or" should be ~~of~~.

Page 14, line 14 of the original, "room" should be ~~from~~.

Page 16, line 12 of the original, "or one" should be ~~of~~.

Page 16, line 18 of the original, ~~degrees~~ should be added after "40".

In the amendment of 9/15/03, page 4, in the replacement paragraph for page 11, line 10, in line 1, "fig. 4" should be ~~Fig. 14~~, line 4, "front" should be ~~from~~ and line 9, "slams" should be ~~clamp~~.

Appropriate correction is required.

Claim Objections

3. Claim 40 is objected to because of the following informalities: in line 2, "elements" second occurrence should be ~~element~~. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 16-23, 25-32, 35-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaufmann et al for the reasons set forth on page 4-5 of the previous Office action.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 24 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufmann et al in view of Horvath et al as set forth in the previous Office action, pages 5-6.

Response to Arguments

8. Applicants arguments filed in the amendment of 7/15/03 have been fully considered but they are not persuasive. Regarding claim 16 applicants argue that the references do not teach or suggest a yarn feeder having a claim with a "box-like cross-sectional profile with portions that incur clamping forces being formed entirely of the plastic material of the housing". Further the patent to Kaufmann et al has an open "C-shaped cross-section" and includes no disclosure of a "bottom half of the clamp, let alone a teaching that the bottom half is made from a plastic material" and that one of the applicants is one of the inventors of the Kaufmann et al patent and that he indicates that the apparatus of the patent included metal elements on the clamp. However, the "box-like" profile applicants are referring to is, as stated in the original description, "The upper housing part 33 and the lower housing part 25 together define a hollow profile, which is embodied approximately in the manner of a box profile" as seen in Fig. 10, see original

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page 8, lines 14-17. Fig. 10 is a cross-sectional end view of the clamp. Applicants' clamp is C-shaped in side view, see Figs. 1, 4-5, 7, 9, as is the clamp of Kaufmann et al. A cross-sectional end view of the clamp of Kaufmann et al would be "box-like" as broadly recited, the same as applicants' device. Further, there is no "bottom half" of the clamp of applicant's device as applicants' representative alleges. The C-shaped part of the clamp fits over the rail 5 and is connected thereto by a setscrew extending through the nut 140, Fig. 5. Furthermore, the clamp of Kaufmann et al is formed from the housing and thus is made of plastic, meeting the terms of claim 16.

Regarding claim 26 applicants argue that none of the references teach or suggest a yarn feeder having a fastening clamp with "portions extending beyond a plane defined by an edge of the drive belt on a yarn guide drum side of the belt". Such "plane" as broadly recited would be a plane through the edge of the belt 50 of Kaufmann et al. As seen in Fig. 1 of Kaufmann et al the clamp 5, 6 would be "beyond" that plane, i.e. farther away from the plane as seen in Fig. 1 and would meet the terms of this claim as broadly recited.

With respect to claim 32 applicants argue that none of the references include bearing seats that are tubular members integrally formed in the housing parts. However the bearing seats in the housing parts 10, 11 of Kaufmann et al accommodate the bearings 41, 42. The seats are tubular and integral in the housing parts. While applicant further alleges that the claim calls for alignment of a "vertically arranged shaft", nothing in the claims require a vertical shaft. Applicants are arguing something that is not included in the claims.

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Conclusion

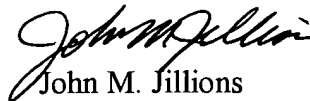
9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Jillions whose telephone number is (703) 308-2685. The examiner can normally be reached on M-F 9:15 - 5:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


John M. Jillions
Primary Examiner
Art Unit 3654

jmj